

**U.S. Patent of Barra et al., Amendment after Final Office Action and Request for Reconsideration**  
**Serial No.: 09/771, 556 – Docket No. P-1 CIP MG**

**REMARKS**

On July 26, 2005, applicants' undersigned had several telephone conferences with Examiner Firmin Backer to discuss the Final Office Action and the applied art. All of the claims of record – 34-45 – have been finally rejected as been fully anticipated by U.S. Patent Publication No. 2002-0144154 to Tomkow, for reasons set forth in paragraphs 2-14 of the Action. In paragraph 15, the Examiner has indicated why the applicants' arguments filed on July 11, 2005, were not persuasive.

During the aforementioned telephone conferences with Examiner Backer, it was pointed that the Tomkow publication was based on a patent application filed on February 2, 2002, which, in turn, claimed priority on a series of provisional applications, the earliest one of which was filed on December 6, 2000. The subject application, on the other hand, was filed on January 29, 2001, and claimed priority of parent U.S. patent application Serial No. 09/578,756, which was filed on May 25, 2000, thus predating all and any of the dates to which the reference is entitled. Accordingly, in these circumstances, it is believed that the Tomkow is neither a valid nor an effective reference against the subject application. As such, the subject application has been amended to include a cross reference to the parent application, thereby perfecting the claim of priority originally set forth in the Declaration as filed.

It is respectfully submitted that applicants are entitled to the earliest filing date of May 25, 2000, as the subject matter defined in the pending claims relies on the disclosure

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contained in Figs. 1-5C of the subject CIP application, these corresponding to original Figs. 1-5B in the parent application.

The Examiner has indicated that the finality of the Office Action will be withdrawn, as the Tomkow application has been relied upon by the Examiner as the only prior art commencing with the first Official Action. A new, non-final Office Action will be issued either allowing the subject application or potentially cited new and valid prior art.

In view of the foregoing, applicants respectfully request that the Final Office Action be withdrawn. It is believed that this application contains allowable subject matter, and allowance and issuance of all of the claims of records is respectfully solicited.

*Applicant hereby petitions that any and all extensions of time of the term necessary to render this response timely be granted. COSTS FOR SUCH EXTENSION(S) AND/OR ANY OTHER FEE DUE WITH THIS FEE DUE WITH THIS PAPER THAT ARE NOT FULLY COVERED BY AN ENCLOSED CHECK MAY BE CHARGED TO DEPOSIT ACCOUNT #10-0100.*

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